

1 CATHERINE CORTEZ MASTO
Attorney General
2 RAELENE K. PALMER
Deputy Attorney General
3 Nevada State Bar No. 8602
Office of the Attorney General
4 Public Safety Division
555 E. Washington Avenue, Suite 3900
5 Las Vegas, NV 89101
Phone: (702) 486-0978
6 Fax: (702) 486-3773
Attorneys for Defendants
7 *Dr. Robert Bannister, Dwight Neven,*
Pat Diliddo, Tamiia Grisham, and
8 *Jane Balao-Cledera*

9
10 **IN THE UNITED STATES DISTRICT COURT**
11 **FOR THE DISTRICT OF NEVADA**

12 JOHN CROWLEY,

13 Plaintiff,

14 v.

15 STATE OF NEVADA, et al.,

16 Defendants.

CASE NO. : 2:10-cv-00150-KJD-LRL

**MOTION FOR ENLARGEMENT OF TIME
(FIRST REQUEST)**

17 The Office of the Attorney General of the State of Nevada, by and through counsel,
18 CATHERINE CORTEZ MASTO, Attorney General, and RAELENE K. PALMER, Deputy
19 Attorney General, on behalf of Defendants DR. ROBERT BANNISTER (sued as Dr.
20 Bannister), DWIGHT NEVEN (sued as Warden Neven), PAT DILIDDO (erroneously sued as
21 Pat Dilido), TAMIIA GRISHAM (erroneously sued as Toma Grisham), and JANE BALAO-
22 CLEDERA (sued as Jane Cledera), (hereinafter "Defendants") hereby respectfully submit the
23 instant MOTION FOR ENLARGEMENT OF TIME (FIRST REQUEST) in the above-referenced
24 matter. This Motion is brought pursuant to Fed.R.Civ.P. 6(b), LR 6-2, the attached Points and
25 Authorities, and the papers and pleadings on file with the Court herein.

26 ///

27 ///

28 ///

MEMORANDUM OF POINTS AND AUTHORITIES

I. PROCEDURAL HISTORY

Plaintiff first commenced an action on or about February 3, 2010, in the United States District Court District of Nevada: *John Crowley vs. State of Nevada; NDOC; Howard Skolnik; Dr. Bannister; Warden Neven; Jane Doe I-III; John Doe I-X*, Case No. 2:10-cv-00151-KJD-LRL, alleging a cause of action pursuant to 42 U.S.C. § 1983, in violation of various Amendments to the United States Constitution. (Court Docket (“CD”) #4). On May 5, 2010, the Court screened the Complaint, and dismissed the Complaint without prejudice for failure to state a claim upon which relief could be granted; Plaintiff was given leave to amend within 30 days to correct the deficiencies in the Complaint. (CD #3).

On or about November 30, 2010, Plaintiff filed another Complaint, (CD #5), and then he filed another on or about January 28, 2011, (CD #6) (hereinafter “Amended Complaint”), which this Court screened on April 25, 2010. (CD #9). The Court does not appear to have addressed the Complaint filed as CD #5. See CD #9. In the Amended Complaint, Plaintiff names six defendants: Bruce Bannister, Dwight Neven, Pat Diliddo, Tamiia Grisham, Jane Balao-Cledera, and Daniel Sussman. Pursuant to the Court’s Order, the Office of the Attorney General accepted service on behalf of all the Defendants except Daniel Sussman, on May 18, 2011¹. (CD ## 9, 12). The CM/ECF system then generated a due date of June 17, 2011, by which Defendants must file an answer or otherwise respond to the Amended Complaint.

Defendants now hereby submit the instant Motion for Enlargement of Time (First Request) to answer or otherwise respond to Plaintiff’s Complaint as follows:

II. LEGAL ARGUMENT

Fed.R.Civ.P. 6(b)(1)(A) provides, in pertinent part:

(b) *Extending Time.*

(1) *In General.* When an act may or must be done within a specified time, the court may, for good cause, extend the time:

(A) with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires[.]

¹ Service was erroneously accepted on behalf of Howard Skolnik, who is not a named Defendant in the Amended Complaint.

1 Rule 6(b)(1) allows for a party to move for an enlargement of time, the determination of
2 which lies with the presiding court. "The Court has inherent power and discretion to control its
3 docket, and the proceedings within the cases on its docket." *Ford v. County of Missoula,*
4 *Mont.*, 2010 WL 2674036, 1 (D.Mont., 2010) (citing *Landis v. North American Co.*, 299 U.S.
5 248, 254 (1936); see also Fed.R.Civ.P. 6(b) (advisory committee note, 1946) ("Rule 6(b) is a
6 rule of general application giving wide discretion to the court to enlarge these time limits or
7 revive them after they have expired . . .").

8 Defendants are requesting an extension of time to file their Answer or other response
9 to Plaintiff's Complaint before the deadline has expired. Defendants are making this request
10 based upon good cause to gather key pieces of information which are necessary to effectively
11 defend in the instant action and properly respond to Plaintiff's complaint². Counsel for
12 Defendants submits that additional time is needed to communicate with Defendants and other
13 witnesses and to gather key pieces of information which are necessary to effectively defend in
14 the instant action and properly respond to Plaintiff's Complaint. *Id.*

15 The Las Vegas Office of the Attorney General Litigation Division had a temporary, forty-
16 percent staff reduction from five to three attorneys in March 2011. That reduction was
17 reduced to twenty percent in late April 2011. *Id.* In the interim, each of the attorneys
18 accepted an increased caseload, consisting of those cases which had been previously
19 assigned to the attorneys who left the Division, as well as new litigation which is being
20 assigned to a smaller pool of attorneys. *Id.*

21 Since receiving Plaintiff's Complaint, the Attorney General's Office has been in contact
22 with the named Defendants to inform them of the pending lawsuit with a request for
23 information, including a statement of personal knowledge of the events described in the
24 Amended Complaint. *Id.* Counsel has not yet received the requested information and learned
25 just today that one of the Defendants has transferred to another facility within the NDOC and
26 may not have received counsel's request for information. *Id.* In addition, Plaintiff's medical
27 records have been received from the Nevada Department of Corrections, which will take
28

² See Affidavit of RAELENE K. PALMER, attached hereto as "Exhibit A."

1 additional time to review. *Id.*

2 Therefore, Defendants respectfully request an additional sixty (60) day enlargement of
3 time in which to file an answer or otherwise respond to Plaintiff's Complaint to and including
4 August 16, 2011. This request is made in good faith and not for purposes of delay.

5 **III. CONCLUSION**

6 Because good cause has been shown, Defendants respectfully request the Court to
7 enlarge the time by which they must file a response to Plaintiff's Complaint pursuant to
8 Fed.R.Civ.P. 6(b) by 60 days to August 16, 2011.

9 Dated this 17th day of June, 2011.

10 Respectfully submitted,

11 CATHERINE CORTEZ MASTO
12 Nevada Attorney General

13 By: /s/ RAELENE K. PALMER
14 RAELENE K. PALMER
15 Deputy Attorney General
16 Public Safety Division
17 *Attorney for Defendants*

18 "IT IS SO ORDERED:

19 
20 UNITED STATES MAGISTRATE JUDGE

21 DATED: June 21, 2011
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I, Marsha Landreth, hereby certify that I am an employee of the State of Nevada, Office of the Attorney General and that on the 17th day of June, 2011, I served the foregoing **MOTION FOR ENLARGEMENT OF TIME (FIRST REQUEST)** by causing a true and correct copy thereof to be filed with the Clerk of the Court using the CM/ECF system and by causing a true and correct copy thereof to be delivered to the Department of General Services, for mailing at Las Vegas, Nevada, addressed to the following:

JOHN CROWLEY #72248
LOVELOCK CORRECTIONAL CENTER
1200 PRISON ROAD
LOVELOCK, NV 89419

/s/ Marsha Landreth
An employee of the Office of the Attorney General

EXHIBIT A

EXHIBIT A

AFFIDAVIT OF RAELENE K. PALMER

STATE OF NEVADA)
) ss:
CLARK COUNTY)

I, RAELENE K. PALMER, being first duly sworn, hereby state:

1. I present this Affidavit in support of a motion to extend time to file an answer or other responsive pleading to Plaintiff John Crowley's Amended Complaint in *Crowley v. State of Nevada, et al.*, United States District Court for the District of Nevada Case Number 2:10-cv-00150-KJD-LRL. I have personal knowledge of, and am competent to testify, regarding the matters stated in this Affidavit.

2. I am an attorney licensed to practice in the State of Nevada, and I am admitted to practice in the United States District Court for the District of Nevada.

3. I am currently employed as a Deputy Attorney General at the Nevada Office of the Attorney General, Bureau of Litigation, Public Safety Division, NDOC Unit, in Las Vegas Nevada.

4. The NDOC Unit in Las Vegas is comprised of five attorneys who, among other things, are responsible for defending the NDOC and its employees against inmate civil rights actions.

5. One of the five attorneys transferred to another unit in March, and his replacement did not commence employment until one week ago on April 25, 2011; another attorney tendered her resignation effective March 25, 2011; her position remains unfilled.

6. I, along with the two remaining attorneys and the newly hired attorney, am now responsible for the increased caseload until the vacancy is filled; I currently have 42 cases assigned to me.

7. In the last month, the overwhelming majority of my time has been spent handling discovery issues and related motions in another federal civil rights case. Each of the attorneys in the Division has a similar situation, and despite our best effort, recent circumstances have created time constraints in which we are unable to review the client information until close in time to when a response is due to the Court, as in this case.

///

///

8. Since receiving Plaintiff's Amended Complaint, the Attorney General's Office has been in contact with the named Defendants to inform them of the pending lawsuit with a request for information, including a statement of personal knowledge of the events described in the Amended Complaint.


9. I have not yet received the requested information and learned just today that one of the Defendants has transferred to another facility within the NDOC and may not have received my first request for information.

10. I will supplement my request to all of the Defendants with an additional reminder on this date to provide the information in an expedited fashion but will then need time to prepare the response to the Amended Complaint, accordingly.


11. In addition, Plaintiff's medical records have been received from the Nevada Department of Corrections, which will take additional time to review.

12. I aver that the request for a 60-day extension of time in this matter is made in good faith and not for the purposes of delay.

DATED this 17th day of June 2011.


 RAELENE K. PALMER
 Deputy Attorney General
 Public Safety Division
 Bureau of Litigation
 Nevada Office of the Attorney General

SUBSCRIBED AND SWORN to before
 me this 17th day of June 2011.


 NOTARY PUBLIC in and for
 said County and State.

